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PETITION FOR WRIT
OF CERTIORARI
TO THE SUPREME COURT OF THE UNITED STATES

William H. Penaat, petitioner herein, prays that a Writ of Certiorari issue to review the judgment of the Court of Appeal of the State of California, First Appellate District, Division I, ruling in the above case made on April 4, 1972; the Supreme Court of the State of California denied a petition for hearing of the case on May 31, 1972.

OPINIONS BELOW

The opinion of the Court of Appeal of the state of California, First Appellate District, Division I, Wm. H. PENAAT vs. City of San Jose, is reported at 24 Cal. App. 3d, 707, a copy thereof is appended hereto.

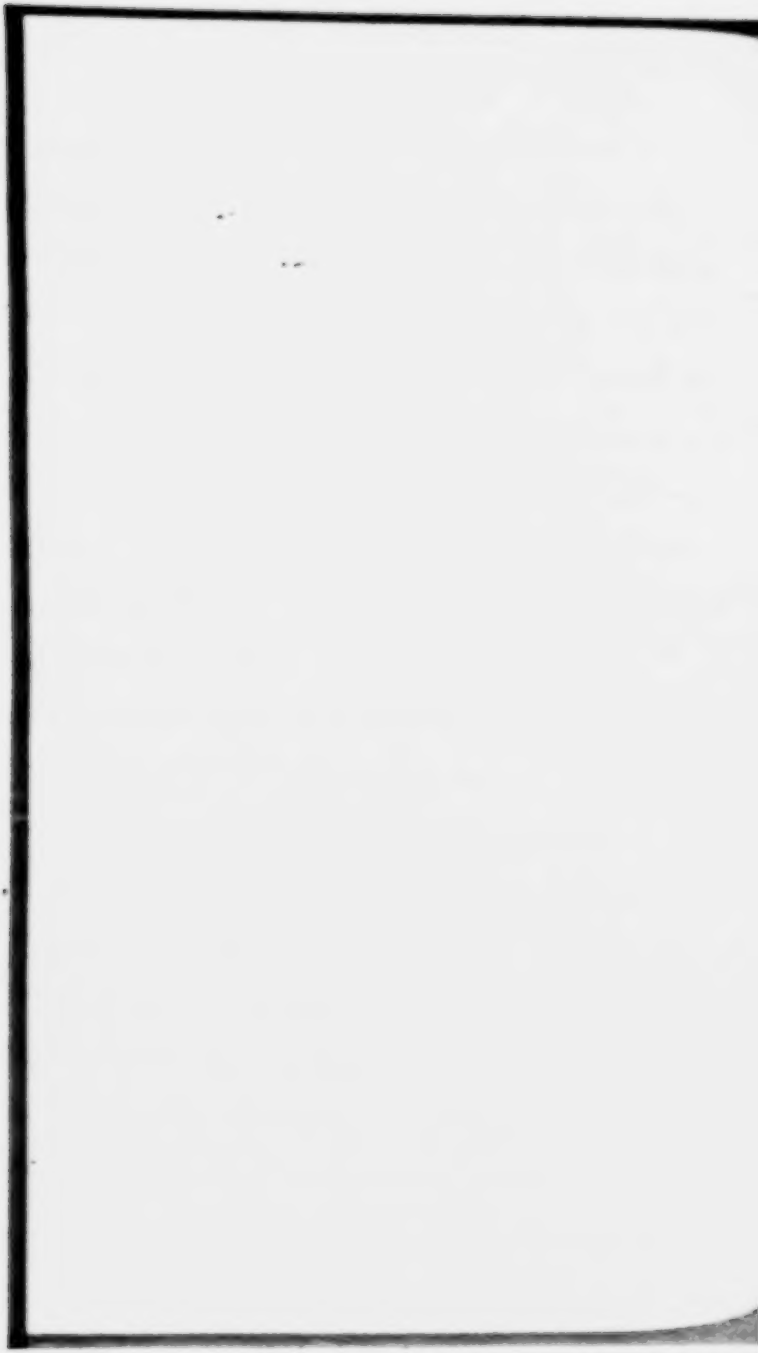
JURISDICTION

The judgment of the Court of Appeals of the State of California, First Appellate District, Division I was made and entered on April 4, 1972. A petition for hearing of the matter by the Supreme Court of the State of California was denied by order made and entered on May 31, 1972. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(3), in that a right, claim and immunity asserted to exist under the Constitution of the United States, under amendments Four and Fourteen, has been denied by the State Court.

QUESTIONS PRESENTED

Petitioner is the registered owner of the subject motor vehicle. Petitioner's automobile was parked and locked at the curb of a four lane, one-way street in San Jose, California. The vehicle was not suspected of being involved in the commission of a crime nor was it believed to contain contraband. It was, however, left there illegally, in that by local ordinance motor vehicles are prohibited from parking on that street between assigned hours of the day.

Pursuant to the ordinance the San Jose Police Department cited the automobile and called for a tow truck to remove it. Upon arrival and prior to towing, the operator forced an entry into the locked vehicle, released the brake, placed the gear in neutral and hitched it to the tow vehicle. The automobile was removed without Petitioner's know-



ledge or consent to a private garage.

The questions presented are:

1. Does the opening and entry of a locked motor vehicle under such circumstances violate the Fourth and/or Fourteenth Amendments to the United States Constitution?

2. If such entry is constitutionally prohibited does this make the subsequent towing of the automobile constitutionally forbidden as being the fruit of an "unreasonable search and seizure."?

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

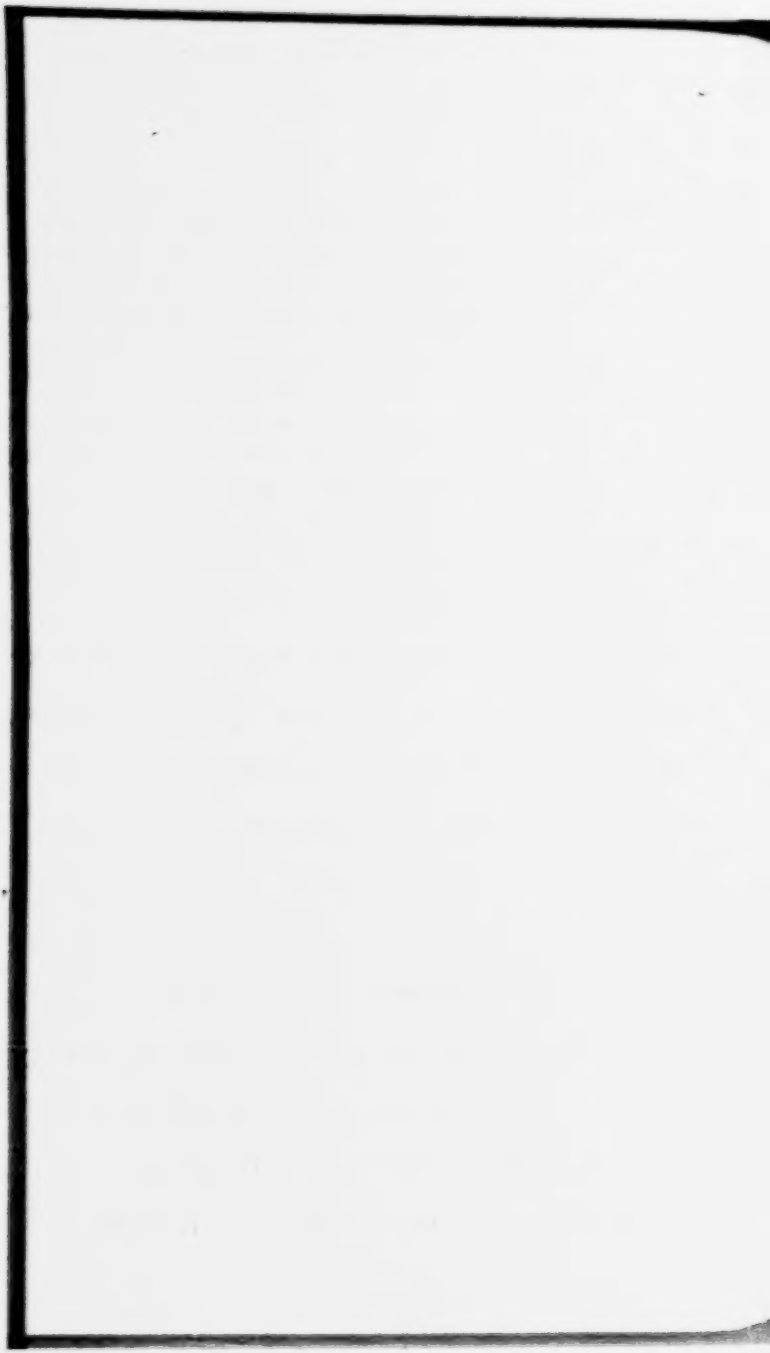
The Fourteenth Amendment to the United States Constitution, Section I, provides:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Fourteenth Amendment has been held to be the means of enforcing the provisions of the Fourth Amendment from unreasonable State interference. Ker v. California, 374 U.S. 23,33, 10 L.Ed2d 726, 83 S.Ct. 1623 (1963).

STATEMENT OF THE CASE

Petitioner's vehicle was illegally parked, in violation of a posted city ordinance, at a location marked as a tow-away zone. San Jose City Police



ticketed the vehicle in preparation for its removal. The tow truck operator found the doors locked yet entered the vehicle and took it to a private garage for storage.

Petitioner, contending that the entry into the locked vehicle was a violation of rights under the Fourth Amendment to the United States Constitution, brought a class action in the Superior Court of Santa Clara County, California, for an order permanently restraining the City of San Jose from entering automobiles which were about to be towed without the permission of the owners thereof and applied for a preliminary injunction to the same effect.

Petitioner raised the constitutional question in his original complaint wherein he demanded relief for the illegal search and for illegally entering his vehicle. Plaintiff's complaint, paragraph

X.

The issue was again raised in Petitioner's motion for a temporary injunction where he asked that the defendant City of San Jose (hereinafter City) be restrained ("from entering automobiles which are about to be towed"). See also, opening statement at the hearing on the motion, (Rptrs trans. 3 L10) and the points and authorities submitted to the trial court. (Par. 11 p.2. L 15, 16.).

The trial court denied the motion for the preliminary injunction and from its judgment petitioner appealed to the Court of Appeal of the State of California First Appellate District, Division I.

Petitioner's opening brief in the Court of Appeals states at page 5:

> "In enforcing the Fourth Amendment's prohibition against unreasonable searches and seizures, the Court has insisted upon probable cause as a minimum requirement for a reasonable search permitted by the Constitution." Chambers v.

Maroney, 399 41 S. 42 26 L.Ed2d 419, 428, 90 S.Ct. 1975 (1970).

Petitioner then states in his Reply Brief, page 2:

> "The admitted goal of the police is to remove the vehicle from the street. This can be accomplished without entry into the vehicle in violation of the owner's Fourth Amendment rights. Tr. p 17, 20, 24."

The Court of Appeal, on April 4, 1972, filed its judgment affirming the decision of the trial court. Petitioner thereupon petitioned the Supreme Court of the State of California for a hearing of the matter. The Supreme Court's order denying such hearing was filed on May 31, 1972.

Petitioner urges that such entry is a violation of petitioner's Fourth Amendment guarantees, that the seizure was thus void and the subsequent towing of the vehicle illegal.

REASONS FOR GRANTING THE WRIT

It has been held by this court

in Carroll v. U.S., 267 U.S. 132, 692 L. Ed 543, S.Ct. 132 (1925) that officers are entitled to stop and search the fleeting target of an automobile if they believe it to contain contraband.

In Preston v. U.S., 376 U.S. 364, 11 L.Ed2d 777, 84 S.Ct. 881 (1964) this court held that a car, towed to a garage and then searched, having been deprived of mobility, could be searched only with prior judicial approval.

Cooper v. California, 386 U.S. 58, 17 L.Ed2d 730, 87 S.Ct. 788 (1967) holds that "lawful custody of an automobile does not of itself dispense with constitutional requirements of searches thereafter made of it". (Page 61)

In Harris v. U.S., 390 U.S. 234, 19 L.Ed2d 1067, 88 S.Ct. 992 (1968) this court held that "once the door [of the car] had lawfully been opened," objects in view are

subject to seizure. (Page 236)

In Chimel v. California, 395 U.S. 752, 23 L.Ed2d 685, 89 S.Ct. 2034 (1969) it is held that a search incident to an arrest is limited to the person of the arrestee and the area "within his immediate control". The Preston case was cited with approval.

In Chambers v. Maroney, 399 U.S. 42, 26 L.Ed2d 419, 90 S.Ct. 1975 (1970) the court held that "Given probable cause to search", an immediate search without a warrant is reasonable.

These pronouncements of this court do not provide precise rules by which the current matter can be judged.

In the case of Mozetti v. Superior Court, 4 Cal.3d 699 (1971) the police conducted an inventory search of an automobile that they had removed from a public highway following the emergency hospitalization of the vehicle's owner.

The California Supreme Court held that the inventory search violated the Fourth Amendment's proscription of unreasonable searches and seizures, finding that the vehicle owner's interest in privacy outweighed any conflicting interests in the preservation of the owner's property during the period when he was absent from his car. (Page 707) The court goes on to direct the police to "simply close the windows and lock the doors rather than search the contents of their cars". (Page 708) The Mozetti case was called to the attention of the Court of Appeal in petitioner's reply brief in contending that the tow operator's entry of the locked vehicle was a violation of Fourth Amendment rights. (Reply Brief, p2) The Court of Appeal, however, brushed this argument aside and sustained the judgment of the trial court. Mozetti was also called to the attention of the

Supreme Court. (Petition for Hearing, p1)

As Mr. Justice Douglas aptly said in his dissent in Cooper v. California, supra, at page 65,

> "these days police often take possession of cars, carrying them away when improperly parked. Those cars are 'validly' held by the police. Yet if they can be searched without a warrant, the precincts of the individual are invaded and the barriers to privacy breached."

This court has said:

> "In enforcing the Fourth Amendment's prohibition against unreasonable searches and seizures the Court has insisted upon probable cause as a minimum requirement for a reasonable search permitted by the Constitution." Chambers v. Maroney, supra, 428.

There is nothing about a parked automobile to justify opening and searching it prior to towing it away. Vehicles can be towed, without being opened, through the use of a dolly. The record shows there was nothing about petitioner's parked vehicle to give probable cause to believe that it was involved in the com-

mission of a crime or that it contained contraband and there was no justification for its entry without the owner's permission.

The questions presented by this case are weighty and of recurring significance. Hundreds of vehicles are towed away for improper parking each day in the United States, many of them under circumstances similar to those now presented to the Court. The Supreme Court of the State of California upheld the right of police to open and search locked vehicles, by declining to review the decision of the Court of Appeal. This establishes, in California at least, a legal principle that appears at variance with constitutional principles fixed by this Court. Since the Fourth Amendment rights of many citizens throughout the land in addition to California are directly affected by this type of police activity, it is desirable for this Court to review the matter.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that this petition for a Writ of Certiorari should be granted.

JON F. GRAY
Attorney for Petitioner

PROOF OF SERVICE BY MAIL

NO. 29559

I am a citizen of the United States, over 18 years of age, a resident of Santa Clara County, and not a party to the within action. My business address is 330 North Market Street, San Jose, California, 95110. I served three (3) copies of the attached: PETITION FOR WRIT OF CERTIORARI TO REVIEW JUDGMENT OF THE SUPREME COURT OF THE STATE OF CALIFORNIA, by placing said copy in an envelope addressed to:

CITY CLERK
CITY OF SAN JOSE
CITY HALL
801 North First Street
San Jose, California

Each envelope was then sealed and postage fully prepaid thereon, and was on August 25, 1972, deposited in the United States mail at San Jose, California. That there is delivery service by United States mail at the place so addressed, or regular communication by United States mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 25, 1972, at San Jose, California.

/s/
MARY LOU LAFUENTE

Police Towing of Illegally Parked Auto Not "Auto Theft"

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

FILED

APR - 4 1972

Court of Appeal - 1st Dist.
Clifford G. Porter, Clerk

By _____ Deputy

WILLIAM H. PENAAT, etc.,
Plaintiff and Appellant,
v.
CITY OF SAN JOSE,
Defendant and Respondent.

1 Civil No. 29559
(Sup. Ct. No. 242836)

THE COURT:

This appeal is from an order of the trial court denying the motion of plaintiff for a preliminary injunction against the City of San Jose, restraining the city from towing vehicles from the tow-away zones in the city to any location other than as authorized by section 22850 of the Vehicle Code, and from entering automobiles which are about to be towed, without the permission of the owners thereof.

Plaintiff's vehicle was illegally parked, in violation of a posted city ordinance, at a location amply marked as a tow-away zone. City police cited and inventoried the vehicle in preparation for its removal, and had the car towed away by one of the private tow-trucks contracting with the city for removal of vehicles. The tow-truck operator found the car locked with a window open, entered the plaintiff's vehicle to release the parking brake and place the car in neutral gear to avoid damage to the car, and took the vehicle to a private garage for storage.

Plaintiff contends that the procedure adopted by the city, in having the chief of police negotiate towing contracts with private garages and tow-truck operators, violates the provisions of section 22850 of the Vehicle Code, requiring that the removed vehicle be taken "to a garage designated . . . by the governmental agency of which the officer or employee is a member, . . ." There is no showing that the authority to negotiate towing contracts was not validly delegated to the chief of police by the city council. Absent such a showing, the presumption established by section 664 of the Evidence Code applies: "It is presumed that official duty has been regularly performed." The chief of police, a public officer engaged by the city council and entrusted with the enforcement of traffic regulations and ordinances, is a proper person to represent the government agency involved in designating the garage to which impounded vehicles, including that of plaintiff in this case, are removed.

Plaintiff further contends that entry into the vehicle by the police or tow-truck operator for removal for storage or for the purposes of inventory is an unconstitutional search of the vehicle and an illegal entry. Removal of the illegally parked vehicle is authorized both by the Vehicle Code and by the local city council resolution. Morgetti v. Superior Court (1971) 4 Cal.3d 699, 707, states that an inventory of items in plain sight, clearly visible without probing, is permissible and does not constitute a violation of the constitutional prohibitions against illegal search. See also Hughes v. City of Phoenix (1946) 170 P.2d 297, holding that a city ordinance, declaring an unoccupied vehicle found violating the parking ordinance to be a nuisance and authorizing the police to seize and impound the vehicle until specified payment was made, was a valid exercise of the city's right to define nuisances and abate them, and to regulate the use of streets and remove encroachments and obstructions therefrom.

The means chosen for removal, for entering the vehicle and releasing the gears and brake to avoid damage to the impounded vehicle, seems reasonably chosen to minimize loss to the plaintiff. Exigent circumstances exist, requiring rapid removal of vehicles parked in illegal obstruction of the heavy rush hour traffic. The means used is apparently customary and normal, whether removing a vehicle at private request or for public need. Since there is no showing of unreasonableness in the means chosen or the degree of force used, the trial court's ruling as to the validity of the entry is proper.

Plaintiff finally contends that the removal of the vehicle after the alleged illegal entry is the public offense of auto theft under section 10851 of the Vehicle Code. A police officer who authorizes the removal of an illegally parked vehicle by a properly equipped tow-truck operator, in accordance with the express mandate of both the applicable sections of the Vehicle Code and local ordinances, is not committing "auto theft" within the meaning of the Vehicle Code.

"In the construction of a statute the intention of the Legislature . . . is to be pursued, if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it." (Code Civ. Proc., § 1859.) Applying this rule of statutory construction, the general provision of section 10851 of the Vehicle Code relating to auto theft by "[a]ny person who drives or takes a vehicle not his own, without the consent of the owner thereof," must be considered modified or controlled by the particular provisions of the Vehicle Code authorizing the removal and impounding of illegally parked vehicles under the direction of a police officer. Any other result would be absurd, and would frustrate the clear legislative intent to use governmental police powers to regulate the traffic on public roads.

Order affirmed.

CERTIFIED FOR PUBLICATION

Trial Court: Superior Court, County of Santa Clara

Trial Judge: Hon. O. Vincent Bruno

Attorney for Appellant: William H. Penaat
235 E. Santa Clara Street, Suite 210
San Jose, CA 95113

Attorney for Respondent: Ferdinand Palla
City Attorney
419 City Hall
San Jose, CA 95110

ORDER DUE
June 2, 1972

ORDER DENYING HEARING

AFTER JUDGMENT BY THE COURT OF APPEAL

1st District, Division 1, Civil No. 29559

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

PENAAT

v.

CITY OF SAN JOSE

FILED

MAY 31 1972

E. E. BISHEL, Clerk

E. F. Deputy

Appellant's petition for hearing DENIED.

I, E. E. BISHEL, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court, as shown by the records of my office.

Witness my hand and the seal of the Court this 23rd day of August A.D. 1972

Clerk

By J. M. Peyton Deputy Clerk

W. P. Gibson

Chief Justice

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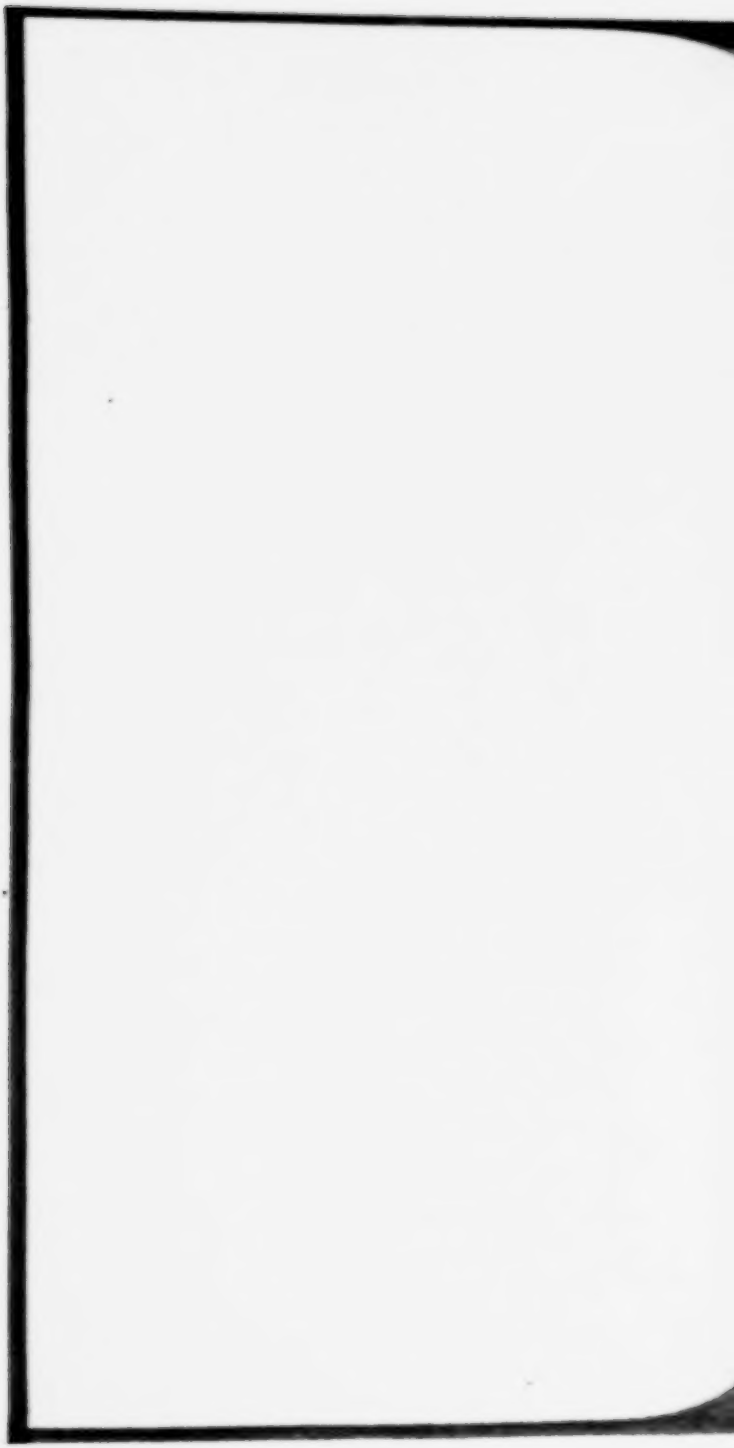

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SUMMARY OF PROCEEDINGS

Petitioner sought and was denied an injunction to restrain City from entering illegally parked cars for the purpose of towing them away and from towing such cars to private garages that had been designated by the Chief of Police pursuant to towing contracts negotiated by him with the garages and tow truck operators. Petitioner contends that the City's policy of having the Chief of Police negotiate the contracts violated Veh. Code, § 22850, requiring that a removed vehicle be towed to "a garage designated . . . by the governmental agency of which the officer or employee is a member . . ." Petitioner also contended that entry into illegally parked vehicles by police or tow-truck operators about to tow the vehicle was unconstitutional and illegal. Moreover, petitioner contended that removal of such vehicles after such entry constituted auto

theft. (Superior Court of Santa Clara County, No. 242836, O. Vincent Bruno, Judge.)

The Court of Appeal affirmed the denial of the injunction. The Court pointed out that petitioner had made no showing that the authority to negotiate the towing contracts had not been validly designated and held that, under the circumstances, the statutory presumption of regularity in official functions was controlling. The court also held that, absent a showing of unreasonableness in the means chosen or the force used, authorized entry into illegally parked cars was valid and that removal of the cars in accordance with the Vehicle Code and local ordinances was not auto theft. (The California Supreme Court denied a petition for hearing of the case on May 31, 1972.)

PRELIMINARY STATEMENT

Respondent wishes to point out the following matters in response to Petitioner's

"Question Presented": that Petitioner's vehicle was parked on a one-way street which was a main commute thoroughfare and means of egress for homeward-bound traffic between the hours of 4:00 p.m. and 6:00 p.m.; and Petitioner admits that his automobile had been "left there illegally," in violation of a posted City ordinance at a location marked as a tow-away zone. Further, Petitioner's contention that it was unnecessary to gain entry into his parked vehicle for purposes of removing it from the street--and that other means should have been used--was answered by the Court of Appeal of the State of California, below:

> "The means chosen for removal, for entering the vehicle and releasing the gears and brake to avoid damage to the impounded vehicle, seems reasonably chosen to minimize loss to the Plaintiff. Exigent circumstances exist, requiring rapid removal of vehicles parked in illegal obstruction of the heavy rush-hour traffic. The means used is apparently customary and normal, whether removing a

vehicle at private request or for public need. Since there is no showing of unreasonableness in the means chosen or the degree of force used, the trial court's ruling as to the validity of the entry is proper."

(24 CA 3d 707, at pp. 709-710.)

It is Respondent's main contention that the opening and entry of an illegally parked vehicle for purposes of removing it from a public street, under these circumstances, is neither a "search" nor a "seizure" under the Fourth and/or Fourteenth Amendments to the U. S. Constitution, nor any ruling of this Court:

"The word 'search' implies some exploratory investigation, or an invasion and quest--a looking for and seeking out. It also implies a prying into hidden places for that which is concealed and that the object searched for has been hidden or intentionally put out of the way. The observing of that which is open and patent, however, is not a search."

44 Cal Jur 2d (Rev.) "Searches & Seizures." Sec. 2, p. 6, and cases cited in footnotes 10, 11, and 12.

"A search ordinarily implies a quest by an officer of the law, and a seizure contemplates a forcible dispossession of the owner."

Hale v. Henkel, 201 US 43, 77; 50 L Ed 652.

"Objects falling in the plain view of a police officer who has the right to be in the position to have that view are not the product of a search."

12 U.S. Supreme Court Digest "Search & Seizure" Sec. 2, p. 53 (Pock.Supp.); citing Harris v. U. S., 390 U. S. 234, 19 L Ed 2d 1067, 88 S. Ct. 992 (1968).

In the present case there was no search of Petitioner's vehicle, no seizure of his personal property for use as evidence, no criminal or civil court proceedings involving such property or evidence, nor any conceivable invasion of Petitioner's privacy. There was merely an effort on the part of Respondent's agents to prevent loss or damage to Petitioner in the course of removing his illegally parked and unattended vehicle from a public street. And, since Petitioner has already conceded that the police had authority to remove his car (Petition for Hearing to California Supreme Court, at p. 4), he can make no

claim of being forcibly dispossessed of his property. In light of the above, and the authorities cited, he has failed to raise any grounds for relief under the U. S. Constitution or any provision of Federal law.

Ker v. California, 374 U. S. 23, 33; 10 L Ed 2d 726; (1963), cited by Petitioner, would further support Respondent's argument that the observation of evidence lying in plain view, (in that case a brick of marijuana), is not a search.

REASONS WHY WRIT SHOULD BE DENIED

While Respondent has no quarrel with the authority of Petitioner's cases dealing with the suppression of "illegally obtained" evidence in criminal prosecutions, we would emphasize that none of the conclusions he draws from those cases has any relevance or application to the present facts.

For instance, in Carroll v. U.S., 267 U.S. 132;69 L Ed 543 (1925), this Court upheld the

warrantless search of a motor vehicle engaged in the interstate transportation of intoxicating liquor. Preston v. U. S., 376 U. S. 364; 11 L Ed 2d 777, (1964), involved a conviction on a charge of conspiracy to rob a federally insured bank, where the Court found a warrantless vehicle search to be unreasonable because too remote in time from petitioner's arrest. However, in Cooper v. Calif., 386 U. S. 58; 17 L Ed 2d, (1967), the Court affirmed petitioner's conviction on a charge of possessing and transporting narcotics, holding that the warrantless search of a vehicle in police custody was not unreasonable under the Fourth Amendment. In Harris v. U. S., cited above, the Court ruled that the discovery of the evidence was not the result of a search, but rather the result of measures taken to protect a car in police custody:

"A police regulation of the Metropolitan Police Department requires the officer who takes an impounded vehicle in charge to search the vehicle thoroughly, to remove all valuables from it, and to attach to the vehicle a property tag listing certain information about the circumstances of the impounding. Pursuant to this regulation, and without a warrant, the arresting officer proceeded to the lot to which petitioner's car had been towed, in order to search the vehicle, to place a property tag on it, roll up the windows, and to lock the doors . . . the discovery of the card was not the result of a search of the car, but of a measure taken to protect the car while it was in police custody. Nothing in the Fourth Amendment requires the police to obtain a warrant in these narrow circumstances."

(390 U. S. 235, 236; 19 L Ed 2d at p. 1096; emphasis added.)

Likewise Mozetti v. Superior Ct., 4 Cal 3d 699 (1971), cited by Petitioner, which, although narrowing the scope of permissible vehicle searches to objects in plain view, left undisturbed the right of police to inventory vehicles that were parked or immobilized. In the words of Justice Burke's concurring opinion:

"I would emphasize, however, that our decision in no way interferes with or impinges upon the customary authority of the police to inspect and inventory all items of personal property left in plain sight within an automobile or other vehicle in police custody . . . The 'plain sight' rule recognizes that no citizen has a reasonable expectation of privacy with respect to unconcealed items within a vehicle in police custody. . ."

(4 Cal 3d at pp. 712-713).

Chimel v. Calif., 395 U. S. 752; 23 L Ed 2d 685, (1969), involved the warrantless search of a three bedroom house, including an attic, garage, small workshop, and various drawers pursuant to a burglary arrest. In this case the Court merely found, under the circumstances, that, in the absence of a search warrant, there was no constitutional excuse for extending the police search beyond suspect's immediate area. The more appropriate rule is that stated in Chambers v. Maroney, 399 U. S. 42; 26 L Ed 2d 419, (1970), where the Court upheld still another warrantless search of

a vehicle in police custody and ruled that such a search did not violate petitioner's Fourth Amendment rights, following his arrest for probable cause. In an annotation to the Maroney decision appearing in 26 L Ed 2d 893, ("Validity, Under Federal Const., Of Warrantless Search of Automobile--Supreme Court Cases,") the commentator wrote:

> "The Supreme Court has indicated that if an officer who has no search warrant has a right to be where he is and simply observes in an automobile objects which are in 'plain view', the mere observation of such objects does not constitute a search at all and therefore does not fall within the constitutional proscription against unreasonable searches and seizures."
>
> (26 L Ed 2d at 897, and citing Harris v. U.S., above.)

This rule has been followed consistently by both the State and Federal courts, and Petitioner's question--rather than being "weighty" and "significant"--has long been

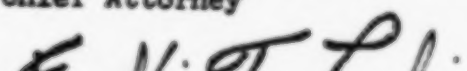
a settled issue of law, nearly universal in scope and commonplace in its application.

CONCLUSION

Petitioner's contention, that entering an illegally parked vehicle prior to its removal from a public street is proscribed by the Fourth and Fourteenth Amendments, is opposed by legal authority and the precedents of this Court; and, for the reasons set forth hereinabove, it is respectfully urged that his petition for a writ of certiorari be denied.

Respectfully submitted,

FERDINAND P. PALLA, City Attorney
DONALD C. ATKINSON, Division Chief Attorney

By 
FRANKLIN T. LASKIN
Deputy City Attorney

Attorneys for Defendants and Respondents

PROOF OF SERVICE BY MAIL

Sup. Ct. No. 242836
No. 1 Civil No. 29559

I am a citizen of the United States, over 18 years of age, a resident of Santa Clara Couty, and not a party to the within action. My business address is 151 West Mission Street, San Jose, California 95110. I served a copy of the attached ANSWER OPPOSING PETITION FOR WRIT OF CERTIORARI by placing said copy in an envelope addressed as follows:

(1 copy) Jon F. Gray, Esq.
330 N. Market Street
San Jose, CA 95110

(1 copy) William H. Penaat, Esq.
330 N. Market Street
San Jose, CA 95110

In addition, forty (40) copies of the above-referred to Petition were sent to:

Supreme Court of the United States
Washington, D. C. 20543

Each envelope was then sealed and postage fully prepaid thereon, and was on September 25, 1972, deposited in the United States mail at San Jose, California. That there is delivery service by United States mail at the places so addressed, or regular communication by United States mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 25, 1972, at San Jose, Calif.

Jean Loudin
Jean Loudin